

RESOLUTION NO. 190 -2023

**A RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF OTTAWA AND AFSCME COUNCIL 31, LOCAL 2819  
(Drug Testing Policy)**

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**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OTTAWA, ILLINOIS,  
AS FOLLOWS:**

**Section One:** That the Mayor of the City of Ottawa, Illinois, be, and he is hereby authorized and directed to execute a Memorandum of Understanding between the City of Ottawa and AFSCME Council 31, Local 2819 adopting a new Employee Drug Testing Policy for AFSCME employees, a copy of which is attached hereto and incorporated herein by reference.

**Section Two:** That all resolutions or parts thereof which are in conflict herewith are hereby repealed.

**Section Three:** That this Resolution shall be in full force and effect from and after its passage and approval as required by law.

	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Commissioner Eichelkraut	<u>X</u>	_____	_____
Commissioner Ganiere	<u>X</u>	_____	_____
Commissioner Pearson	<u>X</u>	_____	_____
Commissioner Barron	<u>X</u>	_____	_____
Mayor Hasty	<u>X</u>	_____	_____

**PASSED and APPROVED** this 19<sup>th</sup> day of December 2023.

  
\_\_\_\_\_  
**Robert Hasty, Mayor**

**ATTEST:**

  
\_\_\_\_\_  
**Shell L. Munks, City Clerk**

## MEMORANDUM OF UNDERSTANDING

This is a Memorandum of Understanding to the 2022-2024 Collective Bargaining Agreement (CBA) between the City of Ottawa, Illinois, (“City”) and AFSCME Council 31, Local 2819, (“Union”).

Whereas, the parties are desirous of adopting a new Employee Drug Testing Policy for employees and CDL holders; and,

Whereas, the City and the Union find the provisions of this memorandum of understanding to be in the best interest of the City and its employees, and the public, health, safety, and welfare.

**Wherefore, the City and Union agree as follows:**

1. The Union adopts as the new drug testing policy for the Union, the City of Ottawa Employee Drug Testing Policy, which is attached to this Agreement as Exhibit A and incorporated herein. That the prior Employee Drug Testing policy, attached as Appendix C and made a part of the parties’ Collective Bargaining Agreement effective May 1, 2022, through April 30, 2024 is hereby immediately removed, revoked, and void. That the new Employee Drug Testing Policy attached hereto as Exhibit A will be incorporated into the parties’ current Collective Bargaining Agreement and will be enforceable upon execution of this Memorandum of Understanding.

2. All other terms and conditions of the 2022-2024 Collective Bargaining Agreement, except to the extent modified by this Memorandum of Understanding, shall be applicable.

3. In the event of any conflict between the provisions of this Memorandum of Understanding and the provisions of the 2022-2024 Collective Bargaining Agreement, the provisions of this Memorandum of Understanding shall prevail and control.

4. This Memorandum of Understanding will expire on April 30, 2024 unless re-negotiated prior to the expiration.

CITY OF OTTAWA, ILLINOIS,

AFSCME COUNCIL 31, LOCAL 2819

By:   
Robert Hasty, Mayor

By:  President

By: 

Date: 12-19-2023

Date: 12-19-2023

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**EXHIBIT A**  
**CITY OF OTTAWA**  
**EMPLOYEE DRUG TESTING POLICY**

**Purpose**

To implement a drug, testing procedure to help ensure a drug and alcohol-free work force and work place.

**I. POLICY:**

It is the policy of the City of Ottawa that the critical mission of city services demand a drug free work environment. In order to maintain public trust and confidence and ensure a mentally and physically fit work force. The City of Ottawa will implement a drug testing program to detect prohibited drug or alcohol use.

**II. PROCEDURE:**

**A. PROHIBITED ACTIVITY:**

Employees, whether on or off duty, shall not:

1. Ingest or possess any controlled substance unless:  
--its legal use and subsequent possession is prescribed by a licensed medical practitioner.  
  
--possession, but not use, is done, so in the official performance of duty with the knowledge and approval of an administrator.
2. Ingest any medication requiring a prescription unless prescribed by a licensed medical practitioner.
3. Ingest any over-the-counter medication or any prescribed medication beyond the recommended or prescribed dosage.
4. Ingest or possess any alcoholic beverage while on duty unless done so in the official performance of duty with the knowledge and approval of a supervisor.
5. Recreational ingesting of any substance containing THC while off duty 8 hours or less prior to the start of their shift or any work for the City of Ottawa.
6. Ingest or possess while on shift any substance containing THC.
7. Report for work with a BAC over .00

**B. GENERAL:**

1. Employees who are taking any medication prescribed by a licensed medical practitioner of which they have been informed has the potential to impair job performance shall advise their department administrator. The medication, its duration of usage, and the potential impairment will be made known. Where appropriate, the employee's duty assignment may be altered or sick time imposed. This information will be kept confidential and made known only to the Chief of Police, or Public Works Director and necessary supervisor(s).

2. Employees who have accidentally ingested or possessed or have been forced to ingest or possess any prohibited substance in this policy shall immediately report such to a department administrator.
3. Employees having any knowledge of another employee in violation of any provision in this policy shall immediately report the circumstances of this knowledge to a department administrator. Any employee who intentionally and falsely accuses another employee of violating this policy will be subject to appropriate discipline.
4. Discipline of employees for violation of this policy shall be in accordance with established procedure and punishment up to and including dismissal may be imposed.

**C. DRUG TESTING PROCESS:**

1. **RANDOM TESTING:**  
This testing will be done on an unscheduled random basis not to exceed six times per year. The names of all city employees, both union and appointed will be placed into a container. 15 names will be drawn out of the container. All selected employees will take their test(s) while on duty. For clarification "On Duty" means scheduled for work on the day of the selection. This is to allow for those employees selected who may be on a shift with hours that do not fall between 7 am to 5 pm to be tested upon reporting to their scheduled day of work. In the event a selected employee is on a scheduled day off, personal day, compensatory day, vacation day, sick day or on worker's comp for the City of Ottawa, the employee's random test will be considered a voided selection. There will be no additional selection in place of voided selections. During the process of selection, union representatives will be notified and allowed to be present if desired. The Chief of Police or Public Works Director, after consulting with the Mayor, may waive random testing if deemed necessary or desirable. **Any employee that is notified and selected for random testing, and said testing has not been considered a voided selection, that fails to submit to or inhibits the testing in any way shall be subject to discipline up to and including discharge. Any employee that interferes with or inhibits the testing of any employee in any way shall be subject to discipline up to and including discharge.**
2. **TESTING FOR CAUSE:**  
Any employee may be required to submit to immediate testing for cause. This testing will be unannounced and is not limited as to time or number. The Chief of Police or Public Works Director is required to provide the tested employee the basis for cause.

The term "cause" is to be liberally construed on behalf of management. Physical symptoms or characteristics of drug/alcohol usage, physical evidence, or information from known or anonymous sources may all be used to justify the finding of cause.

3. Any City of Ottawa employee who is involved in an accident while on duty must immediately notify their supervisor/foreman and their department administrator of the accident. The employee will remain at the scene of the accident until the Chief of Police, Public Works Director, Superintendent, or one of their designee arrives or until they provided other instruction.

The employee must submit to a post-accident drug and alcohol test under the following circumstances:

The accident involving death or great bodily harm.

The at fault accident involved an injury requiring medical treatment.

The at fault accident involved the completion of a police report or the likelihood of an insurance claim being filed.

The at fault accident involved significant property damage over \$1500 (as determined by the Police Department).

Any motor vehicle accident at the discretion of the Chief of Police or Public Works Director.

A post motor vehicle accident drug and alcohol test may be waived if none of the criteria listed above has been met or the test is waived by member of the Police Department Administration (i.e. Captain) or Public Works Director or Superintendent.

The drug and alcohol test will take place immediately following the completion of the report to law enforcement. The employee shall be transported by a supervisor or an administrator to the testing site in a city-owned vehicle.

Employees are required to release the results of the drug and alcohol test to the City of Ottawa.

#### **D. CONDUCT OF TEST**

In conducting the testing herein specified, the Employer shall:

- A. A presumptive test for both drugs and alcohol will be conducted at the Ottawa Police Department by the Chief of Police or his designated agent who must be a member of administration. If the test is inconclusive or indicates a positive result, then further testing will be required subject to the paragraph B.

B. A Confirmation test using test 88872 10 Plus Panel and Test 149 THC will be administered by the laboratory at OSF St. ELISABETH. In the event the test panels change names, the like tests will be used in place.

C. Provide the employee tested with an opportunity to have additional sample tested by a clinical laboratory or hospital facility (HHS Certified) of the employee's own choosing, at the employees own expense.

D. Provide each employee tested with a copy of all information and reports received by the employer in connection with the testing and results.

E. Ensure that no employee is subject to any adverse employment action except emergency temporary re-assignment or leave with pay during the pendency of any testing procedure. Any such emergency re-assignment or leave shall be immediately discontinued in the event of a negative test result, and all records of the testing procedure will expunge from the employees personnel files;

F. Required that the laboratory or hospital facility report to the employer when a blood or urine sample is positive only if both the initial and confirmatory test are positive. The parties agree that should any information concerning such testing, or the results thereof be obtained inconsistent with the understanding expressed herein, the employer and Union shall not use such information in any manner or forum adverse to the employee's interest.

Drug testing will be initiated by the Chief of Police, Director of Public Works, or their designee. Testing will occur while the employee is on duty for all employees except for telecommunicators. If there is an indication of drug abuse for a telecommunicator while off duty, the telecommunicator may be ordered to report for duty immediately and subsequently ordered to submit to testing.

Once an employee is ordered to submit to testing the assigned supervisor will remain in continuous visual contact with the employee and the testing will be accomplished with all due haste.

Prior to testing a pre-test drug screening form will be completed by the tested employee. This form will indicate any drugs, substances, or medical conditions which might account for a positive drug test. This form will be signed by the employee and supervisor and submitted to the Chief of Police, Police Captain, Director of Public Works, or a Superintendent.

A urine, blood, and/or hair specimen (sample) will be taken from the employee under the supervision of a medical laboratory supervisor or physician. The assigned supervisor, physician, or supervising employee will remain in visual contact with the employee and witness the producing of the sample to ensure the sample is the employee's and is not tampered with.

If needed, the employee will be given a reasonable amount of water to aid in urination. If necessary, the employee will be given extra time to produce a urine sample, however if a sample is not given within four (4) hours it will be considered a refusal to submit to this form of testing.

Collection, labeling, testing, storage, and chain of evidence of the sample will be managed by the facility and/or physician responsible for sample collection and any testing facility where the sample may be sent. The testing facility will be certified by the National Institute on Drug Abuse (NIDA).

Standard guidelines provide that a part of the sample submitted be kept in reserve. In the case of a positive test result, the employee may request a sample of this reserve to have it independently tested.

Employees tested will be informed of the results of the testing as soon as possible.

**E. TESTING METHODOLOGY**

Testing consists of a two-step procedure. The first is an initial screening test and the second a confirmation test. A positive result on the initial screening test will NOT be considered conclusive. The sample will undergo a second confirmatory test which is technologically different and more sensitive than the initial test. If both the initial and confirmatory tests are positive the test result is then considered conclusive. The level of concentrations of drugs to be considered a positive test result during the confirmatory test, will be those levels which NIDA has adopted as their current standard at the time of the testing.

**F. REPORTING OF ABUSE**

Any employee prior to taking the preliminary drug test can voluntarily admit to violating the City of Ottawa's Drug Use Policy. Reporting the use is encouraged and shows the willingness to seek help in receiving treatment. Once the report is made the employee is placed on administrative leave and will be contacted the following business day by a supervisor for further instructions. Discipline at this point including termination will only result if the employee who has complied with reporting their abuse fails to comply and complete a rehabilitation program, an employee assistance program or fails subsequent requested drug testing.

**G. REHABILITATION**

Employees who find themselves experiencing drug or alcohol problems are encouraged to come forward as soon as possible and report this problem to the Chief of Police, Public Works Director, or a Department Administrator (i.e. Captain or Superintendent). Admission of a problem in its early stages helps not only the City but the employee. If an employee comes forward voluntarily and reports an abuse problem (prior to any REQUEST for testing), the Chief of Police, Public Works Director or Department Administrator may consider this when contemplating any disciplinary action. The type, depth, and duration of abuse, the employee's service record, the probability of successful rehabilitation, the integrity of the City/Department, along with any other pertinent matter should be considered by the Public Works Director or department administration.